

IN THE SUPREME COURT OF THE STATE OF MONTANA

Nos. AF 07-0393, DA08-0086 and DA 08-0162

IN RE THE STUDENT PRACTICE PETITION)ON BEHALF OF MARK LANCASTER)

FILED

ORDER AUG 13 2008

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Jonathan M. Krauss of the Office of the Montana Attorney General has filed with the Clerk of this Court a letter introducing law student Mark Lancaster as eligible to practice under the Montana Student Practice Rule in our cause numbers DA 08-0086 and DA 08-0162. The letter advises that Lancaster has already written the State's briefs in those cause numbers. In addition, Krauss has filed documentation required for Lancaster to practice under the Student Practice Rule.

The Montana Student Practice Rule does not explicitly require the filing of a petition to practice with a court in which the student wishes to be allowed to practice under the Rule. The Rule does, however, require the filing of written consent to the student's appearance by the person on whose behalf the student is appearing and/or written approval of the law student's appearance by the student's supervising lawyer and, in the case of a law student appearing on behalf of the State, the prosecuting attorney or his authorized representative. The Rule also requires written certification by the dean of the law school the student attends; introduction to the court by an attorney admitted to practice; and written certification by the law student that he or she has read, is familiar with, and will abide by the Rules of Professional Conduct.

Importantly, the Rule further authorizes a court to exclude a law student from active participation in proceedings before the court, in the interest of orderly administration of justice or for the protection of a client or witness. Thus, the Rule implicitly requires a court's permission for practice thereunder. We conclude that such permission must be sought via petition filed prior to the commencement of such activity. An introduction letter filed when the law student's practice has been completed precludes a court—as a practical

matter—from exercising its authority to exclude a law student from active participation in matters before it.

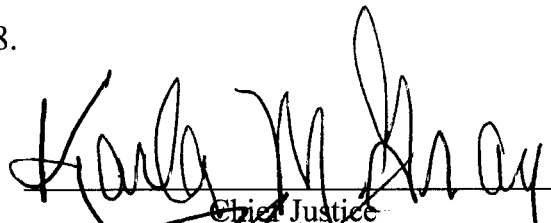
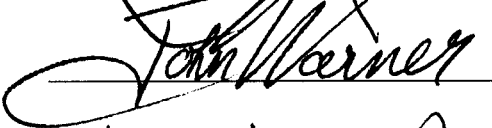
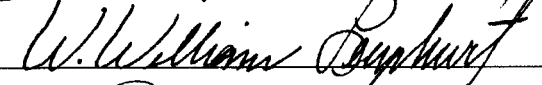
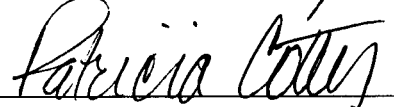
Here, given the lack of clarity in the Rule, we deem Krauss's letter and supporting documentation a petition that Mark Lancaster be allowed to practice before this Court under the Montana Student Practice Rule. Given the breadth of the Attorney General's supervisory authority over county prosecutors, we further deem the written approval filed by Lancaster's supervising attorneys in the two cases in which he appears as approval of authorized representatives of the prosecutors in those matters.

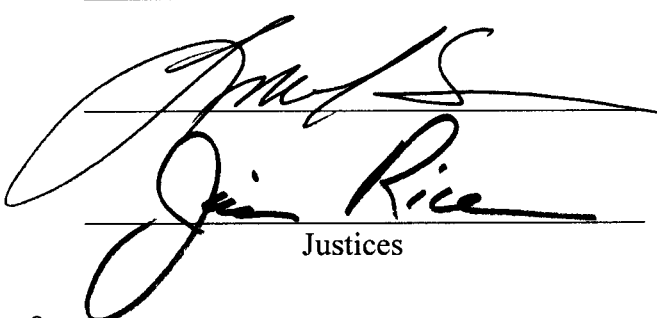
THEREFORE,

IT IS ORDERED that Mark Lancaster shall be allowed to practice before this Court in our cause numbers DA 08-0086 and DA 08-0162 under, and subject to the restrictions of, the Montana Student Practice Rule.

The Clerk is directed to mail copies of this order to all counsel of record.

DATED this 13th day of August, 2008.


Chief Justice





Justices